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Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

Report of the Secretary-General

Addendum

Contents

		Paragraphs	Page
IV.	Views communicated by Governments regarding the report of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions	1–17	2

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IV. Views communicated by Governments regarding the report of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions

1. **Bulgaria,** being among the countries most seriously affected as a result of the implementation of the Security Council resolutions imposing sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro), Iraq and the Libyan Arab Jamahiriya, attaches particular importance to the issue of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions. Bulgaria has repeatedly supported the opinion that the application of certain measures adopted under Chapter VII of the Charter should be accompanied by efforts for avoiding negative effects on third States or, where those effects have nevertheless taken place, for assisting such States promptly and effectively. To that end, Bulgaria has continuously supported the need to establish an appropriate mechanism for rendering assistance to sanctions-affected third States.

2. Bulgaria recalls that the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions imposed under Chapter VII of the Charter has been discussed extensively in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization and the Sixth Committee of the General Assembly, resulting in the adoption by consensus of resolutions 50/51, 51/208, 52/162 and 53/107. Although the adoption of those resolutions and the provisions contained therein marked a distinct advance in identifying the core aspects of the problem, the need to address more specifically and directly the special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter is still pending. In that regard, Bulgaria commends the report of the Secretary-General on the subject (A/53/312), which contains a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162.

3. Bulgaria considers that the conclusions and recommendations of the ad hoc expert group contained in the report represent a good basis for identifying concrete further steps and measures for addressing the issues related to: (a) developing a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures imposed under Chapter VII of the Charter of the United Nations; and (b) exploring innovative and practical measures of assistance that could be provided to the affected third States by the relevant organizations both within and outside the United Nations system.

4. With regard to the development of a possible methodology, Bulgaria draws particular attention to the idea of elaborating a general conceptual framework for impact analysis for identifying and assessing the effects of United Nations-imposed preventive and enforcement measures on third States, which has been discussed extensively by the ad hoc expert group. In that regard, Bulgaria states that the group's deliberations on issues and procedures related to the identification and proper categorization of various effects, the selection of applicable methods for estimating the incurred losses and costs, and subsequently the design of feasible and practical measures of relief and international assistance are commendable and deserve careful analysis and examination.

5. In the opinion of Bulgaria, the recommendation of having an advance assessment of the potential impact of sanctions on the target country and on third States before adopting a resolution under Chapter VII of the Charter of the United Nations (para. 51) is commendable. In that regard, Bulgaria considers as particularly important the need to ensure participation of the concerned third States in the preliminary assessment of the imposition of sanctions, as well as to ensure an opportunity for the potentially vulnerable and affected third States to exercise their right, in accordance with Article 50 of the Charter, to consult the Security Council with regard to possible solutions of their special economic problems arising from the carrying out of preventive or enforcement measures. The devising of an appropriate mechanism for monitoring the effects of sanctions, once they have been imposed, is also considered important (para. 52).

6. Regarding the second key issue of the ad hoc expert group meeting, namely, exploring innovative and practical measures of international assistance that could be provided to third States affected by the application of sanctions, Bulgaria supports the view that the concept of burden-sharing and equitable distribution of costs, as reflected in Articles 49 and 50 of the Charter of the United Nations, should be fully taken into account (paras. 36 and 37).

7. Bulgaria supports the idea, as contained in the report of the expert group meeting (para. 44), that the International Monetary Fund (IMF) and the World Bank consider establishing a special mechanism which would allow those institutions to mobilize new and additional resources from all potential funding sources in order to provide emergency financial support to the affected third States. Bulgaria is of the view that the creation of a special contingency standby fund which would be activated in case of the imposition of sanctions by the Security Council deserves careful consideration.

8. Bulgaria recognizes the important role of the United Nations development programmes and specialized agencies in providing emergency relief and longer-term assistance to the affected third States to enable them to better cope with the social and humanitarian effects of sanctions, as well as in mobilizing support from donor countries and relevant organizations for these activities (para. 45). From Bulgaria's standpoint, the suggestion by the ad hoc expert group that serious consideration be given to applying, for the purpose of mitigating the adverse effects of sanctions on third States, the funding procedures similar to those adopted for peacekeeping operations (para. 46) deserves careful attention and analysis.

9. Bulgaria attaches particular importance to the need to ensure an appropriate mechanism for close coordination among all relevant institutions involved in providing assistance to the affected third States in case of the imposition of sanctions. In that regard, the recommendation of the ad hoc expert group that in the most severe cases, the Secretary-General should appoint a Special Representative to undertake, in collaboration with the Governments concerned, a full assessment of the consequences actually incurred by the specially affected countries as a result of carrying out the United Nations-imposed sanctions, and to identify appropriate and adequate measures of assistance to such States (para. 54) is particularly commendable. In addition, Bulgaria feels that the idea of creating a standing Security Council sanctions committee for assessing and monitoring on a permanent basis the political, social, economic and humanitarian impact of sanctions may also be considered.

10. Bulgaria shares the view that financial assistance may need to be supplemented by non-financial measures of trade promotion, including the granting of special trade preferences, adjustment of tariffs, allocation of quotas, special commodity purchase agreements and finding new markets (para.44), as well as easing the access of goods from the affected third States to the markets of the industrially developed countries. In the opinion of Bulgaria, the ideas of providing special or preferential treatment for the suppliers from sanctions-affected non-target States, facilitating the participation of companies from such States in international efforts for post-conflict rehabilitation, reconstruction and development and promoting foreign direct investment in their economies also deserve special consideration.

11. On the whole, Bulgaria considers that the report of the ad hoc expert group meeting, together with the views expressed in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization and the Sixth Committee of the General Assembly, as well as the provisions of relevant General Assembly resolutions, constitute a sound basis for finalizing the work on this very important issue by reaching an agreement acceptable to all parties on practical solutions concerning the implementation of Article 50 of the Charter. In this regard, Bulgaria believes that the political will of Member States is particularly important.

12. **Turkey** provided its views comprising: (a) information regarding the consequences incurred by Turkey as a third State affected by the application of sanctions imposed on Iraq; and (b) a general evaluation of the report of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162. It states that the issue of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions, having its place among the agenda items of utmost importance, is closely followed by the Government of the Republic of

Turkey. The particular interest of Turkey concerning this item arises from the fact that Turkey, as a third State, has incurred considerable consequences of the sanctions applied by the United Nations.

13. The sanctions, in particular those imposed on Iraq, have had substantial effects on the Turkish economy. The difficulties that emerged as a consequence of the severance of gross bilateral trade between Turkey and Iraq, the termination of contracting and banking services, the loss of transportation and communication fees, the halt of tourism from and through Iraq, the cessation of regional commercial activities, and the military expenditures for struggling with terrorism originating in northern Iraq have reached intolerable limits for Turkey. In that regard, Turkey estimates that the total loss to its economy has surpassed $35 billion as a result of the following causes: (a) suspension of the operation until the end of 1996 of the Kirkuk-Yumurtalik crude oil pipeline, from which Turkey not only was procuring a remarkable portion of its oil import, but also was obtaining a transit fee of $250 million per annum; (b) termination of the transportation activities to and from Iraq that had been carried out by approximately 12,000 trucks with Turkish licence plates; (c) loss of the free-of-charge transit through Iraq to the Gulf States and the fact that Turkish vehicles are compelled to pay excessive transit fees to other States in order to continue transportation to the Gulf States; (d) departure from Iraq, without even the opportunity to take their equipment with them, of Turkish contractors who had undertaken huge projects in that country before the Gulf war; (e) forfeiture of credits from Iraq to the Turkish Central Bank (around $1 billion), the Turkish Eximbank, commercial banks and companies; (f) the concentration of about 500,000 refugees at the Turkish border with Iraq following the Gulf war and the military expenditures for the prevention of terrorism, which expanded in the absence of authority in northern Iraq. The sanctions imposed on Iraq have mostly affected the economy of the south-eastern Anatolia region; the income sources of the region, particularly stock-breeding, the transportation industry and border commerce, have waned and thousands of enterprises have gone out of business.

14. Turkey, as a State which has encountered the adverse effects of the application of sanctions imposed on other States, expects that the deliberations within the relevant United Nations institutions will be concluded, and that a functional mechanism will be established, with respect to the issue of assistance to third States affected by the application of sanctions. Turkey considers that the report of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States (A/53/312, sect. IV) provides a basis for attaining concrete results. In particular, Turkey believes that the parts of the report grouping various types of effects as direct and indirect, trade-related and financial, economic and social, primary and secondary, temporary and long-lasting (paras. 13-20), endorsing the importance of social costs (para. 19), touching upon on-site or field assessments to fully evaluate the adverse effects (para. 34), and the conclusions and recommendations (paras. 49-57) put forward remarkable observations.

15. In the opinion of Turkey, one of the crucial aspects of assessing the effects of sanctions on third States is taking into account the intensity of economic relations and other (e.g., geographical) factors in place between the target country and the third State. Moreover, it is expected that certain mechanisms already established for the restitution of the damages caused by the target State, like the United Nations Compensation Commission concerning Iraq, will be revitalized and become functional to achieve their essential purposes. In that regard, Turkey recommends the following additional points as further mechanisms to activate the work regarding assistance to third States affected by sanctions:

(a) It is observed that commercial exemptions or concessions granted to certain neighbouring countries have proved to be the most effective and practical method of affording relief to the third States which have intensive commercial relations with the target State. This was the case when one of Iraq's neighbouring countries, which cited the crises that its economy had undergone owing to the sanctions, was authorized to sign a trade protocol to import circa 3.5 million tons of oil and oil products from Iraq. In paragraph 40 of the report of the Secretary-General (A/53/312), several examples are given regarding the exemptions granted to neighbouring and other third countries. However, the application, consideration and

decision-making procedures with respect to granting exemptions to third States are not elaborated on the same report. In this context, as an effective method of resolving problems of third States stemming from the implementation of sanctions, it could be recommended that third States, particularly neighbouring countries which have intensive commercial and economic relations with the target State subject to the sanctions regime, be permitted, on an exceptional basis, to continue the trade of specific commodities and services. In addition, the procedure regarding application for, consideration of and deciding on these exemptions should be clearly set forth for the convenience of third States.

(b) Another way which would contribute to providing assistance to third States affected by sanctions is directly asking their views on the issue. Thus, the third States which have been affected by sanctions would have an opportunity to state in the proper forums the actual impacts of sanctions on their national economies and to suggest applicable ways to reduce the adverse effects arising from the implementation of sanctions. Such a mechanism, being envisioned also in paragraph 6 of General Assembly resolution 53/107 of 8 December 1998, would facilitate the work of special fact-finding or evaluation missions (para. 56) and that of the Secretariat to be entrusted with the task of monitoring the effects of sanctions with a view to providing information to the Security Council (para. 52), as described in the report of the ad hoc expert group meeting.

(c) A crucial point in the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions is the occurrence of special circumstances which might put some third States in a position of urgent need for certain items. For example, a third State might have the necessity to receive immediately certain commodities or energy inputs, including oil and oil products, due to a natural disaster or other unforeseen events of a similar nature. If such a third State is a neighbouring country, providing the necessary material from the target State could even become a vital solution. In such cases, the special needs of the affected third State should be assessed on a priority basis and the strict application of sanctions should be waived, where necessary.

(d) Although under many sanctions regimes overall trade with the target State is suspended, certain investment, construction, commercial and other economic activities, particularly for humanitarian purposes, may continue to take place between the target State and other States. Humanitarian assistance to the target State in such forms as providing medical equipment, reconstruction of medical facilities and the "oil-for-food programme" in Iraq are examples of this kind. In providing commodities and services for this purpose, the contractors could be selected from those States which have incurred the bulk of adverse effects stemming from the application of sanctions. Such a selection would contribute to alleviating the economic burden of implementing sanctions by the most seriously affected third States.

16. **Yemen**[1] communicated information on the adverse consequences that the country has incurred as a result of its compliance with the sanctions regime imposed on Iraq. In that connection, the competent authorities in the Republic of Yemen have reported that there are a number of Iraqi ships (eight oil tankers and five freighters) that have been moored in the port of Aden since the end of the war between Iraq and Kuwait. The presence of those ships has been inordinately costly, owing to the fact that they have had to be maintained and supplied with fuel, water and other necessary stores and, of course, their crews have had to be kept provisioned as well. Moreover, they constitute a permanent hazard owing to corrosion, the leakage of fuel from them and the fact that they take up a good deal of space, impeding the movement of ships in the port.

17. In view of these facts, Yemen requested that the matter be referred to the competent United Nations authority with a view to either empowering the Government of the Republic of Yemen without delay to take measures to solve the problem or else granting it compensation for the damage and expense which it incurs by allowing the ships to remain in the port of Aden indefinitely in the absence of a solution.[2]

Notes

[1] The original reply was submitted in Arabic.

[2] The issue raised in the communication of Yemen was brought to the attention of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait.